

# **SALES AND USE TAX REVIEW COMMISSION**

## **RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

**BILL NUMBER: A-2366**

**DATE OF  
INTRODUCTION: 5/8/00**

**SPONSOR: Assemblyman LeFevre**

**DATE OF  
RECOMMENDATION: 7/10/00**

**IDENTICAL BILL: S-1261**

**SPONSOR: Senator Bennett**

**COMMITTEE: Assembly Commerce, Tourism, Gaming and Military and  
Veterans' Affairs, Senate Budget and Appropriations**

### **DESCRIPTION:**

These bills provide an exemption for the sale of a limousine to a licensed New Jersey operator and for the sale of parts and labor to any licensed limousine service operator.

### **ANALYSIS:**

The bills are intended to restore an exemption last granted to limousine sales in 1990 as commercial motor vehicles operated under a certificate or permit issued by the Interstate Commerce Commission. See N.J.S.A. 54:32B-8.31 (Repealed by P.L. 1990, c.40). The language in these bills is broader than both the previous exemption and the current exemption for sales of certain commercial motor vehicles, N.J.S.A. 54:32B-8.43, by allowing an additional tax benefit for labor charges, which is not available to other types of commercial motor vehicles. Thus, the bill does not treat similarly situated taxpayers in the same manner. In addition, businesses that may compete with limousine companies, such as taxicabs and airport or hotel van services, do not have an exemption for purchases of vehicles, parts or labor.

The proposed statute could raise Commerce Clause concerns in that it treats New Jersey-licensed limousine service operators more favorably than out-of-state limousine service operators by excluding the latter from a vehicle purchase exemption under its terms. Also, by distinguishing between New Jersey limousine operators and out-of-state operators, the bills lack administrative simplicity because vendors will be required to ascertain state licensing information from purchasers as part of their obligation to accept exemption certificates in good faith.

There is nothing in the bill that prevents the extension of the exemption in unintended ways. For example, the purchase of regular sedan type or mini-van passenger vehicles is clearly exempt by the amendment. Thus, it is possible and likely that such motor vehicles will be purchased either by new or current limousine service licensees, who, for competitive or other reasons, suspend or cease business operations after purchase. The vehicles these licensees purchased tax-free for use in a limousine service could then be converted to personal use without any liability for the sales tax other residents of New Jersey must pay with respect to the use of private passenger vehicles in this state.

**RECOMMENDATION:**

The Sales and Use Tax Review Commission does not recommend either of these bills for enactment.

**COMMISSION MEMBERS FOR PROPOSAL: 0**

**COMMISSION MEMBERS AGAINST PROPOSAL: 5**

**COMMISSION MEMBERS ABSTAINING: 0**